

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed March 31, 2004. Applicants appreciate the Examiner's consideration of the Application. Claims 1, 6, 7, 9, 15, 24, 25, and 30 have been amended to clarify, more particularly point out, and more distinctly claim inventive concepts previously present in these claims. Applicants respectfully submit that no new matter has been added by the amendments to the claims. Support for the amendments may be found in the specification generally at, for example, pages 28-29 and 31-32.

In order to advance prosecution of this Application, Applicants have responded to each notation by the Examiner. Applicants respectfully request reconsideration and favorable action in this case.

Section 103 Rejection

The Examiner rejects Claims 1, 5-8, 11-13, 15-23, 30-33, 35, and 37-44 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,023,722 to Colyer (*Colyer*) in view of U.S. Patent No. 6,445,680 to Moyal (*Moyal*). Applicants respectfully traverse this rejection for the reasons discussed below.

Applicants respectfully submit that the combination of *Colyer* and *Moyal* suggested by the Examiner fails to disclose, teach, or suggest elements specifically recited in Applicants' claims. For example, the *Colyer-Moyal* combination suggested by the Examiner fails to disclose, teach, or suggest "dynamically updating the priority of the request to send data to the client computer in response to the adjusted priority criteria," recited in Applicants' independent Claim 1, as amended.

The Examiner relies on *Moyal* to teach dynamically updating a priority queue in response to a change of state. (Office Action, page 3, paragraph 3.) *Moyal* discloses managing the flow of data from data sources to a queue of a destination output. According to *Moyal*, "The present invention is an arbiter that utilizes a link list to arbitrate access between multiple data sources and a single destination queue." (*Moyal*, column 4, lines 6-8.)

That is, *Moyal* discloses prioritizing source queues to manage the flow of data to a destination output. *Moyal*, however, fails to disclose, teach, or suggest prioritizing requests to send data to a client computer, much less in response to any adjusted priority criteria.

Consequently, at a minimum, *Moyal* fails to disclose, teach, or suggest, “dynamically updating the priority of the request to send data to the client computer,” especially in response to “adjusted priority criteria.” For at least these reasons, *Moyal* fails to disclose, teach, or suggest the elements specifically recited in Applicants’ independent Claim 1, whether *Moyal* is considered alone or in combination with *Colyer*. Accordingly, the *Colyer-Moyal* combination suggested by the Examiner fails to disclose, teach, or suggest the elements specifically recited in Applicants’ independent Claim 1.

As another example, the *Colyer-Moyal* combination suggested by the Examiner fails to disclose, teach, or suggest:

- (1) assigning a priority to the request according to the state associated with the request and according to priority criteria associated with the state; and
- (2) automatically adjusting the priority criteria (recited in Applicants’ independent Claim 1, as amended).

Moyal does not provide such teaching. As discussed above, *Moyal* discloses managing the flow of data from data sources to a queue of a destination output. According to *Moyal*:

The arbiter is of the least recently used type whereby the data source that has not sent data for the longest time is given the highest priority. This arbitration scheme is a fair method of distributing access to the destination queue among all the data sources.

(*Moyal*, column 4, lines 8-12.) That is, *Moyal* prioritizes data sources according to whether a data source has recently sent data, but not according to priority criteria associated with the state of a request for data. Moreover, *Moyal* does not disclose, teach, or suggest automatically adjusting the priority criteria.

Moreover, *Colyer* does not provide such teaching. *Colyer* discloses a prioritization procedure:

For example, if one client Web browser 1a is requesting textual information (e.g., sports scores) and another client Web browser 1b is requesting graphical data (a colour picture of the sports arena), it would be useful to be able to serve the textual information first, as the graphical information takes much

longer to serve as it is much more data intensive. Browser 1a would thus be quickly served the simple text request. Browser 1b would expect to wait longer for the graphics request and thus it is highly advantageous to serve the text request first.

(*Colyer*, column 7, lines 4-14.) *Colyer*, however, does not disclose, teach, or suggest adjusting priority criteria associated with the state of a request for data.

Consequently, at a minimum, the *Colyer-Moyal* combination suggested by the Examiner fails to disclose, teach, or suggest “assigning a priority to the request according to the state associated with the request and according to priority criteria associated with the state,” and “automatically adjusting the priority criteria,” as recited in Applicants’ claim. For at least these reasons, the *Colyer-Moyal* combination suggested by the Examiner fails to disclose, teach, or suggest the elements specifically recited in Applicants’ independent Claim 1.

Applicants’ dependent claims are allowable based on their dependence on the independent claim and further because they recite numerous additional patentable distinctions over the references of the rejection. For example, the *Colyer-Moyal* combination suggested by the Examiner fails to disclose, teach, or suggest “the alternate content comprising a status page, the status page comprising an automatic re-submission time for re-issuing the request,” as recited in dependent Claim 6.

The Examiner relies on *Colyer* to teach alternate content comprising a status page. (Office Action, page 4, paragraph 2.) The Examiner relies on the following passages:

In these instances, one possible high availability server architecture is known (see Japanese Patent No. 2505116 owned by IBM) in which a load balancer is placed before a plurality of server computing devices. Each server computing device is capable of supplying the same information as the other server computing devices of the plurality. Many server devices are used in this way in order to provide the capability of serving a large amount of client browser requests. The load balancer periodically checks the status of each server device to determine how busy that server device is, and updates a data record appropriately. The load balancer then makes decisions as to which server device should serve the next incoming browser request based on the status of each server device as recorded in the data record. Each browser sends a generic request to “the server” specified in the URL and does not know how “the server” is handling the request. The large number of browsers simply are provided with the requested information in a fast and efficient manner.

(*Colyer*, column 3, lines 31-48.)

Also, a well-known triggering feature (see additional server unit triggering unit 313 in FIG. 2) of messaging and queuing unit 31 can be employed to "wake up" additional servers 32a-32n if the queued messages surpass a threshold number. That is, there may be times of low usage where it is not desirable to have all of the servers 32a-32n active. There are other times of high usage when more servers of the set 32a-32n should be active. Thus, messaging and queuing unit 31 periodically checks the number of queued requests and if it is higher than a threshold amount, additional servers can be triggered to turn on during these periods of high usage.

(*Colyer*, column 7, lines 19-30.) The passages, however, do not disclose, teach, or suggest communicating a status page.

Consequently, at a minimum, *Colyer* fails to disclose, teach, or suggest, "the alternate content comprising a status page, the status page comprising an automatic re-submission time for re-issuing the request," as recited in Applicants' claim. For at least these reasons, *Colyer* fails to disclose, teach, or suggest the elements specifically recited in dependent Claim 6, whether *Colyer* is considered alone or in combination with *Moyal*. Accordingly, the *Colyer-Moyal* combination suggested by the Examiner fails to disclose, teach, or suggest the elements specifically recited in dependent Claim 6.

Because Applicants believe they have amply demonstrated the allowability of the independent claims over the references of the rejection, and to avoid burdening the record, Applicants have not provided additional detailed remarks concerning the other dependent claims. Applicants, however, remain ready to provide such remarks if it becomes appropriate to do so.

Independent Claims 25 and 30 recite certain limitations substantially similar to those recited in independent Claim 1. Accordingly, for at least the same reasons, Applicants also respectfully request reconsideration and allowance of independent Claims 25 and 30, together with its dependent claims.

Applicants respectfully request reconsideration and allowance of independent Claims 1, 25, and 30, and all claims that depend on these claims.

CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. For at least the foregoing reasons, Applicants respectfully request full allowance of all the pending claims.

If the Examiner believes a telephone conference would advance prosecution of this case in any way, the Examiner is invited to contact Keiko Ichiye, the Attorney for Applicants, at the Examiner's convenience at (214) 953-6494.

Although Applicants believe no fees are due, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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